7254356/2023/IOC-HOM01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Criminal Rules of Practice – The Criminal Rules of Practice and Circular Orders, 1990 – Amendments to the Criminal Rules of Practice and Circular Orders, 1990 in terms of orders dated 20.04.2021 passed by the Hon'ble Supreme Court of India in S.M.W.P.(Crl.) No.1/2017 –Notification - Orders –Issued.

LAW (L,L.A &J- HOME (COURTS.B) DEPARTMENT

Dated:16.02.2023

G.O.Rt.No.194 Read:-

From the Registrar (Judicial) FAC Registrar General, High Court of Andhra Pradesh, Amaravati, ROC.No.469/SO/2020, dated 03.09.2022.

&&&

ORDER:

In the circumstances reported by the Registrar (Judicial), (FAC) Registrar General, High Court of Andhra Pradesh, Amaravati, in the letter read above, for the reasons stated therein after examination, the Government hereby accord permission to the Registrar General, High Court of Andhra Pradesh, to amend the Criminal Rules of Practice and Criminal Orders, 1990 in terms of orders dated 20.04.2021 passed by the Hon'ble Supreme Court of India in S.M.W.P.(Crl.)No.1/2017 *{In Re: To issue certain guidelines regarding inadequacies and deficiencies in criminal trials)*.

2. Accordingly, the following Notification will be published in an Extraordinary issue of the Andhra Pradesh Gazette, dated 16.02.2023.

NOTIFICATION

In exercise of the powers conferred by Article 227 of the Constitution of India and Section 477 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and of all other powers hereunto enabling and with the previous approval of the Governor of Andhra Pradesh, the High Court of Andhra Pradesh, hereby makes the following amendment to the Criminal Rules of Practice and Circular Orders, 1990.

AMENDMENT

In the said orders,-

(i) **For Rule 30**:-

The following rules shall be substituted namely,-

30(1) The application for bail in non-bailable cases must ordinarily be disposed off within a period of 3 to 7 days from the date of first hearing. If the application is not disposed off within such period, the Presiding Officer shall furnish reasons thereof, in the order itself. Copy of the order and the reply to the bail application or status report (by the police or prosecution) if any, shall be furnished to the accused and to the accused on the date of pronouncement of the order itself.

P.T.O

(2) The Presiding Officer may, in an appropriate case in its discretion insist on a statement to be filed by the prosecutor in charge of the case.

(3) When an accused is released on bail during investigation he shall be bound over to appear in Court after the charge-sheet is filed and summons served on him. It is not necessary to bind him to appear on any earlier date or dates.

(ii) After Rule 35, the following sub rules are added namely,-

35-A:

SUPPLY OF DOCUMENTS UNDER SECTIONS 173, 207 AND 208 CR.P.C.

Every Accused shall be supplied with statements of witness recorded under Sections 161 and 164 Cr.PC and a list of documents, material objects and exhibits seized during investigation and relied upon by the Investigating Officer (I.O) in accordance with Sections 207 and 208, Cr.P.C. Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer.

35-B:

BODY SKETCH TO ACCOMPANY MEDICO LEGAL CERTIFICATE, POST MORTEM REPORT AND INQUEST REPORT:

Every Medico Legal Certificate, Post Mortem Report shall contain a printed format of the human body on its reverse and injuries, if any, shall be indicated on such sketch.

Explanation: The printed format of the human body shall contain both a frontal and rear view of the human body as provided in ANNEXURE – A

35-C:

PHOTOGRAPHS AND VIDEO GRAPHS OF POST MORTEM IN CERTAIN CASES

1. In case of death of a person in police action [under Section 46 Criminal Procedure Code, 1973 ("Cr.PC ") or Sections 129 to 131 Cr.PC") or Sections 129 to 131 Cr.PC) or death while in police custody, the magistrate or the Investigating Officer as the case may be, shall inform the hospital or doctor in charge to arrange for photographs or videography for conducting the post-mortem examination of the deceased. The photographs of the deceased shall also be arranged to be taken in all cases.

2. Such photograph and video graphs shall be taken either by arranging a police photographer or a nominated photographer of the State Government, and where neither of the above are available, an independent or private photographer shall be engaged.

Contd...3

3. Such photographs or video graphs shall be seized under a panchnama or seizure memo and all steps taken to ensure proper proof of such photographs/video graphs during Trial.

4. The Investigating Officer shall ensure that such photographs and videographs, if taken electronically, are seized under a panchnama or seizure memo and steps are taken to preserve the original, and ensure that certificate under Section 65B Indian Evidence Act, 1872 is obtained and taken to be proved during trial.

5. The video or photographs shall be stored on a separate memory card, accompanied by a duly certified certificate under Section 65B Indian Evidence Act, 1872.

6. Where post-mortems are recorded in electronic form, the file containing the post-mortem proceedings, duly certified, should be placed with the memory card as an attachment unless individual memory cards are not capable of being produced before Court.

35-D:

SCENE MAHAZAR/SPOT PANCHANAMA:

1. A site plan of the place of occurrence of an incident shall be appended by the Investigating Officer to the scene mahazar or spot panchnama.

2. The site plan shall be prepared by the Investigating Officer by hand, and shall disclose

(i) the place of occurrence,

(ii) the place where the body (or bodies) was / were found,

(iii) the place where material exhibits and/or weapons,

(iv) blood stains and/or body fluids had fallen,

(v) the place where bullet shells, if any, were found or have caused impact,

(vi) the source of light, if any and

(vii) adjoining natural and man-made structures or features such as walls, pits, fences, trees/bushes, if any and

(viii) elevation of structures and their location.

3. The preparation of this sketch by the Investigating Officer shall be followed by a scaled site plan prepared by police draftsman, if available, or such other authorized or nominated draftsman by the State Government, who shall prepare the scaled site plan after visiting the spot.

4. The relevant details in the mahazar or panchnama shall be marked and correlated in the said site plan.

Contd...4

(iii) For the Rule 53-A, the following Rules shall be substituted namely,-

1. The depositions of witnesses shall be recorded, in typed format, if possible.

   The record of evidence shall be prepared on computers, if available, in the Court on the dictation of the Presiding Officer.

   Provided that in case the language of deposition is to be recorded in a language other than English or the language of the State, the Presiding Officer shall simultaneously translate the deposition either himself or through a competent translator into English.

2. The deposition shall be recorded in the language of the witness and in English when translated as provided in Clause 6 (i).

3. The depositions shall without exception be read over by the Presiding officer in Court. Hard copy of the testimony so recorded duly signed to be a true copy by the Presiding Officer/court officer shall be made available free of cost against receipt to the accused or an advocate representing the accused, to the witness and the prosecutor on the date of recording.

4. A translator shall be made available in each Court and Presiding Officers shall be trained in the local languages, on the request of the Presiding Officer.

5. The Presiding Officers shall not record evidence in more than one case at the same time.

53-B:

RECORDING OF EVIDENCE: FORMAT OF WITNESSES:

1. The deposition of each witness shall be recorded dividing it into separate paragraphs assigning paragraph numbers.
2. Prosecution witnesses shall be numbered as PW-1, PW-2 etc, in seriatim. Similarly, defence witnesses shall be numbered as DW-1, DW-2, etc., in seriatim. The Court witnesses shall be numbered as CW-1, CW-2, etc, in seriatim.
3. The record of depositions shall indicate the date of the chief examination, the cross examination and re-examination.
4. The Presiding Officers shall wherever necessary record the deposition in question and answer format.
5. Objections by either the prosecution or the defence counsel shall be taken note of and reflected in the evidence and decided immediately, in accordance with law, or, at the discretion of the learned Judge, at the end of the deposition of the witness in question.
6. The name and number of the witness shall be clearly stated on any subsequent date, if the evidence is not concluded on the date on which it begins.

Contd...5

(IV) For sub-rule (1) of rule 58 the following shall be substituted namely,-

58 (1):

EXHIBITING OF MATERIAL OBJECTS AND EVIDENCE:

i. Prosecution exhibits shall be marked as Exhibit P-I, P-2 etc in seriatim. Similarly, defence Exhibits shall be marked as Exhibit D-I, D-2, etc in seriatim. The Court exhibit shall be marked as Exhibit C-I, C-2, etc in seriatim.

ii. To easily locate the witness through whom the document was first introduced in evidence, the exhibit number shall further show the witness number of such witness after the Exhibit number. If an exhibit is marked without proper proof, the same shall be indicated by showing in brackets (subject to proof). Explanation: If Prosecution witness no. 1 (PW1) introduces a document in evidence, that document shall be marked as Exhibit P-1/PW1. If proper proof is not offered for that document at the time when it is marked, it shall be marked as Exhibit P-1/PW1 (subject to proof). The Second document introduced by PW1 will be Exhibit P- 2/PW1.

iii. The Material objects shall be marked in seriatim as MO-1, MO-2 etc.

(V) After Rule 58, the following Rules shall be added namely,-

58-A:

SUBSEQUENT REFERENCES TO ACCUSED, WITNESS, EXHIBITS AND MATERIAL OBJECTS:

1. After framing of charges, the accused shall be referred to only by their ranks in the array of accused in the charge and not by their names or other references except at the stage of identification by the witness.

2. After recording the deposition of witnesses, marking of the exhibits and material objects, while recording deposition of other witnesses, the witnesses, exhibits and material objects shall be referred by their numbers and not by names or other references.

3. Where witness cited in the complaint or police report are not examined, they shall be referred to by their names and the numbers allotted to them in the complaint or police report.

Contd...6

58-B:

REFERENCES TO STATEMENTS UNDER SECTION 161 AND 164 CRPC:

1. During cross examination, the relevant portion of the statements recorded under Section 161 Cr.PC used for contradicting the respective witness shall be extracted. If it is not possible to extract the relevant part as aforesaid, the Presiding Officer, in his discretion, shall indicate specifically the opening and closing words of such relevant portion, while recording the deposition, through distinct marking.

2. In such cases, where the relevant portion is not extracted, the portions only shall be distinctly marked as prosecution or defence exhibit as the case may be, so that other inadmissible portions of the evidence are not part of the record.

3. In cases, where the relevant portion is not extracted, the admissible portion shall be distinctly marked as prosecution or defence exhibit as the case may be.

4. The aforesaid rule applicable to recording of the statements under Section 161 shall mutatis mutandis apply to statements recorded under Section 164 of the Cr.P.C, whenever such portions of prior statements of living persons are used for contradiction/corroboration.

5. Omnibus marking of the entire statement under S.161 and 164 Cr.P.C shall not be done.

58-C:

MARKING OF CONFESSIONAL STATEMENTS:

The Presiding Officers shall ensure that only admissible portion of Section 8 or Section 27 Indian Evidence Act, 1872 is marked and such portion alone is extracted on a separate sheet and marked and given an exhibit number.

(VI) After Rule 59, the following shall be added namely,-

59 (1)

The order framing charge shall be accompanied by a formal charge in Form 32, Schedule II, Cr.P.C. to be prepared personally by the Presiding Officer after complete and total application of mind.

(2) Charges of conviction to be set out separately:- if it is proposed to prove several previous convictions against an accused person for the purpose of affecting his punishment, they shall not be lumped in one head of charge, but shall be set forth separately, each under a distinct head of charge

Contd..7

(VII) After Rule 61, the following shall be added namely:-

61-A:

DIRECTIONS FOR EXPEDITIOUS TRIAL

1. In every enquiry or trial, the proceedings shall be held as expeditiously as possible, and, in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded, (section 309 (1) Cr.PC.

For this purpose, at the commencement, and immediately after framing charge, the court shall hold a scheduling hearing, to ascertain and fix consecutive dates for recording of evidence, regard being had to whether the witnesses are material, or eyewitnesses, or formal witnesses or are experts. The court then shall draw up a schedule indicating the consecutive dates, when witnesses would be examined; it is open to schedule recording of a set of witness' depositions on one date, and on the next date, other sets, and so on. The court shall also, before commencement of trial, ascertain if the parties wish to carry out admission of any document under Section 294. and permit them to do so, after which such consecutive dates for trial shall be fixed.

2. After the commencement of the trial, if the court finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable. If witnesses are in attendance no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded, in writing. (Section 309 (2) Cr.PC).

(VIII) In rule 67, for columns (1) to (5) the following shall be substituted namely,-

Rule 67:

"Every judgement shall contain the following:-

(1) Start with a preface showing the names of parties as per FORM A to the Rules.

(2) A tabular statement as per FORM B to the Rules.

(3) An appendix giving the list of prosecution witnesses, defence witnesses, Court witnesses, Prosecution Exhibits, Defence Exhibits and Court Exhibits and Material Objects as per FORM C to the Rules.

(4) Explanation for delay.

Contd...8

(IX) The Existing Rule 68 shall be deleted.

(X) After Rule 67 the following shall be added namely,-

67-A In compliance with Section 354 and 355 Cr. PC, in all cases, the judgements shall contain:

1. the point or points for determination
2. the decision thereon, and
3. the reasons for the decision

67-B:

In case of conviction, the judgment shall separately indicate the offence involved and the sentence awarded. In case there are multiple accused, each of them shall be dealt with separately. In case of acquittal and if the accused is in confinement, a direction shall be given to set the accused at liberty, unless such accused is in custody in any other case.

67-C:

In the judgment the accused, witnesses, exhibits and material objects shall be referred to by their nomenclature or number and not only by their names or otherwise. Wherever, there is a need to refer to the accused or witnesses by their name, the number shall be indicated within brackets.

67-D:

The judgment shall be written in paragraphs and each paragraph shall be numbered in seriatim. The Presiding Officers, may, in their discretion, organize the judgment into different sections.

(XI) After Rule 81, the following rule shall be added namely,-

81-A:

SEPARATION OF PROSECUTORS AND INVESTIGATORS:

The State Governments shall appoint advocates, other than Public Prosecutors, to advise the Investigating Officer during investigation.

Contd..9

(XII) After rule 90, the following shall be added namely,-

90 (1):

Sessions cases may be given precedence over all other work and no other work should be taken up on sessions days until the sessions work for the day is completed. A Sessions case once posted should not be postponed unless that is unavoidable, and once the trial has begun, it should proceed continuously from day to day till it is completed. If for any reason, a case has to be adjourned or postponed, intimation should be given forthwith to both sides and immediate steps be taken to stop the witnesses and secure their presence on the adjourned date.

90(2):

Every Sessions Judge should arrange, as he finds most convenient, for the disposal of urgent civil and criminal work.

(XII) After the existing forms, the following forms shall be added, namely,-

"1.Form – A
2.Form - B
3.Form - C"

3. The Registrar (Judicial), FAC Registrar General, High Court of Andhra Pradesh, Amaravati shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G SATYA PRABHAKAR RAO
SECRETARY TO GOVERNMENT
LEGAL & LEGISLATIVE AFFAIRS AND JUSTICE

To
The Registrar General, High Court of Andhra Pradesh, Nelapadu, Amaravati.
The Commissioner of Printing, State of Andhra Pradesh,
Muthyalampadu, Vijayawada (w.e.).

Copy to:-
The Registrar (Judicial) FAC Registrar General,
High Court of Andhra Pradesh, Nelapadu

SF/SC.

//FORWARDED::BY ORDER//

SECTION OFFICER

7254356/2023/IOC-HOM01

FORM A

IN THE COURT ..... Present.....Sessions Judge [Date of the Judgement] [Case No -------/2019] (Details of FIR/Crime and Police Station)	
Complainant	STATE OF----OR NAME OF THE COMPLAINANT
REPRESENTED BY	NAME OF THE ADVOCATE
ACCUSED	1. NAME WITH ALL PARTICULARS (A1) 2. NAME WITH ALL PARTICULARS (A2)
REPRESENTED BY	NAME OF THE ADVOCATES

FORM B

Date of Offence	
Date of FIR	
Date of Charge sheet	
Date of Framing of Charges	
Date of Commencement of evidence	
Date of which judgement is reserved	
Date of the Judgment	
Date of the Sentencing Order, if any	

Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428 Cr.PC

7254356/2023/IOC-HOM01

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1		
PW2		

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, , MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
DW1		
DW2		

C. Court Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1		
CW2		

G SATYA PRABHAKAR RAO
SECRETARY TO GOVERNMENT
LEGAL & LEGISLATIVE AFFAIRS AND JUSTICE